

U.S. Patent Application Serial No. 10/557,889
Reply to OA dated December 3, 2008

REMARKS

Claims 1-4 are amended in order to more particularly point out, and distinctly claim the subject matter which the Applicants regard as their invention. The Applicants respectfully submit that no new matter has been added. It is believed that this Amendment is fully responsive to the Office Action dated December 3, 2008.

Claims 1-16 are presently being examined. In the Office Action, Claims 4, 9, 12 and 16 were indicated as allowable if rewritten to overcome the rejection(s) under 35 U.S.C. §112, 2nd paragraph and to include all of the limitations of the base claim and any intervening claims. Applicants respectfully defer the rewriting of the claims at this time.

In the Office Action, Claims 3, 4, 8, 9, 11, 12, 15 and 16 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Reconsideration and removal of this rejection are respectfully requested in view of the present claim amendments and the following remarks.

The Office Action points out that in Claim 3, line 6: "the contacting bags" lacks proper antecedent basis, and in Claim 4, line 5: "the hook portion of the fixing member" lacks proper antecedent basis.

Claims 3 and 4 are amended in a manner to overcome this rejection. Removal of this rejection is respectfully requested.

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In the Office Action, Claim 1 is rejected under 35 U.S.C. §102(b) as being anticipated by Rubel (U.S. Patent No. 3,468,100). Reconsideration and removal of this rejection are respectfully requested in view of the present claim amendments and the following remarks.

With respect to Claim 1, the Office Action alleges that Rubel discloses a bagging machine having a charging member (31) attached to a base (24) for holding a plurality of bags (25), and a housing pivotally supporting the base (24) via a shaft (26); wherein the housing is formed with an opening (14) and an end plate (21) presses to hold the plurality of bags (25).

It is respectfully submitted that the Office Action appears to be mischaracterizing the device of Rubel. In the present invention, a "pivoting base portion" (22) is pivotably supported by the "base portion" (10) which has a "charging member" (13) for charging "containing bags" (40). The "pivoting base portion" (22) has an "end plate" (22a) that presses to hold the "containing bags" (40).

Therefore, in the present invention, the "base portion" (10), the "charging member" (13) and the "containing bags" (40) are fixed to a counter, for example, and the "pivoting base portion" (22) having the "opening" (27) pivot in relation to the "base portion", the "charging member" and the "containing bags".

It is respectfully submitted that the present invention is distinct from the device of Rubel because in Rubel a "housing" pivotably supports the alleged "charging member" (31), alleged "base portion" (24) and alleged "containing bags" (25), therefore the alleged "charging member" (31), alleged "base portion" (24) and alleged "containing bags" (25) pivot in relation to the housing, which is distinct from the present claimed invention. Also, in the present invention the claimed "end plate"

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(22a) of the "pivoting base portion" (22), pivots with the "pivoting base portion", in relation to the "base portion" (10). In Rebel, the alleged "end plate" (21) does not pivot.

Additionally, the present invention has the effect that charging the containing bags (40) to the charging member (13) is very easy as the pivoting base portion (22) pivots in relation to the base portion (22), the charging member (13) and the containing bags (40).

Claim 1 has been amended to more clearly define the claimed invention so as to more clearly distinguish over Rebel.

In view of the amendment to Claim 1, and the above remarks, removal of this rejection is respectfully requested.

Regarding independent Claim 3, the Office Action alleges that Rubel discloses a bagging machine having a charging member (31) attached to a base (24) for holding a plurality of bags (25), a housing pivotally supporting the base (24) via a shaft (26); wherein the housing is formed with an opening (14) and an end plate (21) presses to hold the plurality of bags (25), and a fixed member (41) and an end plate (21) presses to hold the plurality of bags (25), and a fixed member (41) that is fully capable of being fixed to any fixing member on a counter of a store.

As in the assertions found above in relation to Claim 1, it is respectfully submitted that the Office Action appears again to be mischaracterizing the device of Rubel, in a similar manner.

In view of the amendment to Claim 3, and the above remarks, removal of this rejection is respectfully requested.

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In view of the aforementioned amendments and accompanying remarks, Claims 1-16, as amended, are believed to be patentable and in condition for allowance, which action, at an early date, is requested.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the Applicants' undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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